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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,877

04/16/2004

Donn Furlong

8618

30621

7590

07/13/2005

JENSEN + PUNTIGAM, P.S.

SUITE 1020

2033 6TH AVE

SEATTLE, WA 98121

EXAMINER

VASUDEVA, AJAY

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/825,877

Applicant(s)

FURLONG, DONN

Examiner

Ajay Vasudeva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Election/Restrictions*

1. Claims 3, 4 and 6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/14/2005.

2. Applicant's election with traverse of Species I (claims 1, 2 and 5) in the reply is acknowledged. The traversal is on the ground(s) that the independent claims read on both species and no art has been applied. This argument is not found persuasive because applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. In the present case, the generic claims 1 and 2 are not considered as allowable, as detailed in the rejection below.

Applicant is however reminded that upon the allowance of a generic claim, applicant is entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

3. The requirement is still deemed proper and is therefore made **FINAL**. Since this application contains non-elected claims 3, 4 and 6, a complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanford (US 5,090,352 A).

Stanford shows a rudder assembly (*figures 19-21; and col. 10, lines 19+*) having a main rudder member [8g], a hollow cylindrical principal shaft secured to the boat for rotation about its axis, a tab element [27] accommodated intermediate the outer boundaries of the rudder member, a secondary shaft [25] secured to the tab element so as to be rotatably received in and extending beyond the principal shaft, and means to independently rotate the principal and the secondary shaft. The tab is selectively extendable outwardly from either side of the main rudder member and rotates about the same axis as the main rudder member. Re claim 5, the tab element rotates about the same axis as the rudder member (figure 21).

Applicant may note that the limitation “**adapted for use ... at a stern of the boat**” (emphasis provided) is merely an intended use limitation. As such, the main rudder member shown in figure 19 is considered capable of -- or adaptable for -- use at a stern of the boat and therefore meets the requirement of the claim.

In another embodiment, the rudder assembly (figure 23) has a main rudder member [71] at the stern of the boat, and a spoiler [27c] accommodated intermediate the outer boundaries of the rudder member and independently rotatable relative to the rudder member. The spoiler is selectively extendable outwardly from either side of the main rudder member. Further, regarding

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the now withdrawn claim 3, the spoiler is horizontally offset from the axis of rotation of the main rudder member.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 2 and 5 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's comments about the Office action being mailed to the inventor instead of his designated counsel, it is noted that the action was correctly sent to the correspondence address of record at the time of the mailing.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 1,540,079 A (LUCHSINGER), DE ('580) and FR ('217) each show a tab element accommodated intermediate the outer boundaries of a rudder.

8. This is a Non-Final rejection

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AV 

Ajay Vasudeva  
Examiner  
Art Unit 3617

  
S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
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